THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1559 OF 2007

DATED 13th MARCH, 2007

Between

Pittala Sathaiah and others.

... Petitioners

AND

The District Collector, Ranga Reddy District at Lakdikapurl, Hyderabad and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1559 OF 2007

ORDER:

Petitioners 3 to 6 are daughters of petitioners 1 and 2. It is alleged that Pittala Narsamma, mother of first petitioner, was allotted Acs.5.02 guntas of agricultural land in Sivarampally village of Rajendranagar Mandal in 1950. She and the first petitioner were allegedly dug a borewell and were cultivating wet crops. They were in possession of the land till 1972. It is alleged that one Kumari P.Sabitha Bhaskar Reddy of Industrial Department took away the land and in collusion with revenue authorities got her name mutated in the revenue records. It is also alleged that the land was also acquired by Industries Department without due process of law under Land Acquisition Act, 1894. The first petitioner approached the District Collector and made a representation on 28.03.1995 requesting for redressal. He also requested the second respondent for certified copy of patta certificates and other revenue records. The revenue officials informed that it is not possible to issue Pahanis as the land is allotted to A.P.Industrial Infrastructure Corporation Limited (APIIC). The first respondent- District Collector, issued Memo, dated 22.07.1996 informing the first petitioner that the land assigned to Pittala Sattaiah was taken over by APIIC in 1978 and that sethwar was also issued by the Assistant Director of Survey and Records duly removing the name

of the applicant and therefore, it is not possible to again enter the name of the petitioner. In this writ petition, the petitioner seeks invalidation of the said Memo.

Learned counsel for the petitioners vehemently contends that the land was assigned to mother of the first petitioner and she was dispossessed in 1972 highhandedly by the Government and also Kumari P.Sabitha Bhaskar Reddy. Though the petitioners went on seeking redressal from different authorities, nobody came to rescue of the petitioners, which is resulted in loss of livelihood and violation of fundamental right under Article 21 of Constitution of India. He also submits that due to ignorance and illiteracy, they could not seek appropriate remedy before this Court earlier. **Opposing** the writ petition, learned Assistant Government Pleader points out that the writ petition is barred by delay and laches and that when the petitioners admittedly lost possession in 1972 even a suit for declaration of title would not lie. He also disputes that in effect the petitioners are raising dispute regarding title, which cannot be adjudicated in a writ petition.

Who is the assignee or who is the owner of the land admeasuring Acs.5.02 guntas in survey No.48 of Sivarampally Village? The grievance of the petitioners can only be redressed by finding a suitable answer to this question. Can it be done in a writ petition? It is well settled and indeed axiomatic that ordinarily while exercising the power of judicial review under Article 226 of the Constitution, this Court would not decide disputed questions of title. A reference may be made to the decisions of Supreme Court in **State of Rajasthan v Bhawani Singh**[1], **Mohan Pandey v Usha Rani Rajgaria**[2] and **Parvatibai Subhanrao Nalawada v Anwarali Hasanali Makani**[3].

In **State of Rajasthan** (supra), the Supreme Court observed thus:

> Having heard the counsel for the parties, we are of the opinion that the writ petition was misconceived insofar as it asked for, in effect, a declaration of writ petitioner's title to the said plot. It is evident from the facts stated hereinabove that the title of the writ petitioner is very much in dispute. Disputed question relating to title cannot be satisfactorily gone into or adjudicated in a writ petition.

In **Parvatibai** (supra), the Supreme Court observed as under.

> …Before closing this judgment we would like to emphasise that in cases relating to immovable properties which are governed by the ordinary civil law the High court should not exercise its special jurisdiction under the

Constitution unless the circumstances are exceptional. This aspect has been discussed by this court earlier on several occasions.

In para 2 of the affidavit accompanying the writ petition filed by the first petitioner, it is admitted that Pittala Narsamma and the first petitioner were in possession of the land in 1972 and subsequently it is only Kum P.Sabitha Bhaskar Reddy, who obtained mutation in her name. From 1972 till 1995, the petitioners did not agitate the matter in any legal forum. Only in 1995, they approached the second respondent, who issued the impugned Memo, dated 22.07.1996. There is a delay of about 11 years in approaching this Court for assailing the Memo, dated 22.07.1996 issued by the District Collector. This will lead to an inference that from 1972 onwards, the petitioners were not agitating the matter before any authorities till 1995 and from 1996 onwards, they did not agitate the matter before any forum. In every case, illiteracy and ignorance cannot be a ground to entertain delayed cases and attempt to resurrect the rights, which get relinquished by lapse of time. As pointed out by the learned Assistant Government Pleader, when a person loses possession beyond 12 years, even a suit for declaration of title based on possession would not be maintainable.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

13.03.2007.
pln

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[1] AIR 1992 SC 1018

[2] AIR 1993 SC 1225

[3] (1992) 1 SCC 414